

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ALICE GOODWIN,	)	8:12CV73
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
OMAHA WORLD HERALD,	)	
	)	
Defendant.	)	

This matter is before the court on its own motion. Plaintiff filed a Complaint and paid a \$350.00 filing fee on February 21, 2012. (Filing No. [1](#).) Also on February 21, 2012, the clerk's office gave to Plaintiff one blank summons form for use in completing service of process on Defendant. (Filing No. [2](#).) Plaintiff attempted to complete service of process on Defendant by sending the Complaint and summons form by certified mail on July 5, 2012. (Filing No. [5](#) at CM/ECF p. 3.)

Federal Rule of Civil Procedure 4 requires that service of process be completed "within 120 days after the complaint is filed." [Fed. R. Civ. P. 4\(m\)](#). A court must extend the time for service if a plaintiff shows there was "good cause" for the failure to serve within 120 days. [Id.](#); [Adams v. AlliedSignal Gen. Aviation Avionics](#), 74 F.3d 882, 887 (8th Cir. 1996).

Here, Plaintiff did not attempt service of process until July 5, 2012, which was 135 days after she filed the Complaint. Defendant has filed a Motion to Dismiss in which it argues, among other things, that it was not served within 120 days. (Filing Nos. [6](#) and [7](#).) Plaintiff has not responded to Defendant's Motion to Dismiss, and the time in which to do so has now passed. In addition, Plaintiff has not asked the court to extend the time for service. However, on the court's own motion, the court will give Plaintiff until November 21, 2012, to show cause why this case should not be dismissed without prejudice for her failure to serve Defendant within 120 days.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have until November 21, 2012, to show cause why this case should not be dismissed. If Plaintiff does not respond, or if good cause is not shown, this action will be dismissed without prejudice and without further notice.

2. The clerk's office is directed to set a pro se case management deadline with the following text: November 21, 2012: deadline for Plaintiff to show cause why service of process was not completed.

3. Defendant's Motion to Dismiss (Filing No. [6](#)), including Defendant's argument that service was also ineffective under Federal Rule of Civil Procedure 4(h), is held in abeyance until after Plaintiff is given an opportunity to show cause.

DATED this 23rd day of October, 2012.

BY THE COURT:

*s/ John M. Gerrard*  
United States District Judge

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